

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Thierry CHARBONNEAUX et al.)	Group Art Unit: 1794
Application No.: 10/534,209)	Examiner: Newton O. Edwards
Filed: April 18, 2006)	Confirmation No.: 5179
For: ARTICLES WITH ANTIBACTERIAL)	
AND ANTIFUNGAL ACTIVITY)	

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In complete response to the Restriction/Election Requirement mailed July 28, 2008, Applicants submit herewith the following response.

The Examiner sets forth the following Restriction Requirement:

Group I: Claims 13-20, drawn to a yarn or fibers or filament;
Group II: Claims 21 and 25, drawn to a composite article; and
Group III: Claims 22, 23, and 24, drawn to a process for making yarn or fibers or filaments.

Applicants respectfully traverse the Restriction Requirement as set forth by the Examiner. Moreover, Applicants respectfully assert that the inventions of Groups I - III should properly be examined together. Further, Applicants submit that the inventions of Groups I - III are closely related and that a proper search of any of the claims should, by necessity, require a proper search of the others. Thus, Applicants submit that all of the claims can be searched simultaneously, and that a duplicative search, with possibly inconsistent results, may occur if the restriction requirement is maintained.

Applicants submit that any nominal burden placed upon the Examiner to search accordingly to determine the art relevant to Applicants' overall invention is significantly outweighed by the public's interest in not having to obtain and study many separate patents in order to have available all of the issued patent claims covering Applicants' invention. The alternative is to proceed with the filing of numerous applications, each consisting of generally

the same disclosure, and each being subjected to essentially the same search, perhaps by different Examiners on different occasions. This process would place an unnecessary burden on both the Patent and Trademark Office and on the Applicants.

Regardless of whether the three groups are independent or distinct, Applicants respectfully assert that the Examiner need not have restricted the application. *M.P.E.P.* § 803 requires that “[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Therefore, it is not mandatory to make a restriction requirement in all situations where it would be deemed proper.

In the interest of economy, for the Office, for the public-at-large, and for Applicants, reconsideration and withdrawal of the Restriction Requirement are requested.

Nevertheless, Applicants hereby elect, with traverse, Group I (*i.e.*, claims 13-20). Applicants further elect, with traverse, yarns in claim 13, polyamides in claim 17, and polyamide 66 in claim 19, for the purposes of searching only.

In making these species elections, Applicants understand that the Office will follow the procedure set forth in *M.P.E.P.* § 809.02, which provides for a complete action on the merits of all claims readable on the elected species, and in *M.P.E.P.* § 803.02, whereby on the finding of allowable species, examination will continue with the non-elected species until all species have been examined or a non-allowable species is found.

Applicants have no intention of abandoning any non-elected subject matter and should it be necessary, Applicants expressly reserve the right to file one or more continuation and/or divisional applications directed to non-elected subject matter.

The Examiner is invited to contact the undersigned at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,
BUCHANAN INGERSOLL & ROONEY PC

Dated: August 28, 2008

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